

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of Preparation for)
International Telecommunication)
Union World Radiocommunication)
Conference)

IC Docket No. 94-31

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**REPLY COMMENTS OF THE ASSOCIATION
FOR MAXIMUM SERVICE TELEVISION, INC.**

The Association for Maximum Service Television, Inc. ("MSTV") hereby files reply comments in response to the Second Notice of Inquiry, IC Docket No. 94-31, released in the above captioned docket on January 31, 1995 (the "Notice").^{1/}

I. The United States Should Not Support an ITU Allocation in the 1990-2025 MHz Band Before the Domestic Feasibility of Such an Allocation Has Been Established.

As MSTV and others have previously noted in this proceeding and elsewhere, television broadcasters in the United States are justifiably alarmed about the potential domestic allocation of spectrum in the 1990-2025 MHz band to Mobile Satellite Services (MSS).^{2/} In the United States, the

^{1/} MSTV filed initial comments in conjunction with the Association of America's Public Television Stations, Capital Cities/ABC, Inc., CBS, Inc., Chris-Craft/United Television Stations Group, FOX, Inc. & FOX Broadcasting Stations, Inc., the National Association of Broadcasters, National Broadcasting Company, Inc., Public Broadcasting Service, Radio-Television News Directors Association, and the Society of Broadcast Engineers, Inc. Coordination of a joint response has proven infeasible given the temporal proximity of the annual NAB convention to the deadline for filing reply comments in this docket. Thus, MSTV is filing these separate reply comments.

^{2/} See Comments of MSTV and the Joint Commenters, IC Docket No. 94-31, at 6-13 (March 6, 1995) (the "Joint Comments"); (continued...)

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1990-2025 MHz band is currently allocated to broadcast auxiliary services, and broadcasters use this spectrum to support a variety of critically important auxiliary services, notably including electronic news gathering.^{3/}

Given their expressed interest in obtaining spectrum in the 2 GHz band to support new MSS systems, it is not surprising that most MSS industry commenters supported the Commission's proposal for a global allocation of the 1990-2025 MHz band to MSS.^{4/} However, none of these commenters has addressed the domestic feasibility of the Commission's tentative proposal to relocate the potentially displaced domestic broadcast auxiliary services to the 2110-2145 MHz band. Plainly, the United States should not endorse a global allocation of the 1990-2025 MHz band for MSS at WRC-95 before

^{2/} (...continued)

Reply Comments of MSTV, IC Docket No. 94-31, at 2-3 (August 5, 1994); Comments of MSTV and Other Major Broadcasting Entities, IC Docket No. 94-31, at 3-8 (July 15, 1994); Reply Comments of MSTV, ET Docket No. 93-198, at 2-4 (July 29, 1993).

^{3/} Joint Comments, IC Docket No. 94-31, at 6-13; see also Reply Comments of Capital Cities/ABC, Engineering Statement of Kenneth J. Brown, ET Docket No. 94-32, at 2-5 (June 29, 1994); Reply Comments of MSTV, ET Docket No. 93-198, at 2-4 (July 29, 1993).

^{4/} See Comments of AMSC, IC Docket No. 94-31, at 8 (March 6, 1995); Comments of COMSAT Mobile Communications, Inc., IC Docket No. 94-31, at 2, 10-11 (March 6, 1995); Comments of Constellation Communications, Inc., IC Docket No. 94-31, at 10 (March 6, 1995); Comments of IRIDIUM, Inc., IC Docket No. 94-31, at 17 (March 6, 1995); Comments of Loral/Qualcomm, Inc., IC Docket No. 94-31, at 30 (March 6, 1995); Comments of Motorola, Inc., IC Docket No. 94-31, at 8 (March 6, 1995).

determining whether such an allocation could be implemented domestically.

Even members of the MSS community have acknowledged that significant unresolved issues must be resolved before the Commission can draw any final conclusions regarding the domestic suitability of the 1990-2025 MHz band for MSS. For example, TRW has acknowledged that "the 1990-2010 MHz band is very heavily used for broadcast auxiliary services." Comments of TRW, Inc., at 22. TRW also has observed that the "[c]osts of moving ENG users to other bands may prove to be prohibitively high, and the issue of which entities should bear this cost is a complicated one, not susceptible to easy resolution." Id. at 22-23.^{5/} MSTV believes that TRW has correctly identified the fundamental problem with pursuing additional spectrum in the 1990-2110 MHz band for MSS at WRC-95: there are too many open questions that remain to be resolved at the domestic level, and it therefore would be

^{5/} MSTV does not agree that the issues of relocation costs and who bears them should be considered difficult or complicated. As in the case of broadband PCS and microwave incumbents in 1850-1990 MHz band, it should be clear beyond a doubt that if there is to be relocation of broadcast auxiliary users that process must be (a) foolproof in terms of satisfying the needs of those users and (b) undertaken on the basis of full cost reimbursement by MSS users. See In the Matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (Third Report and Order), 8 FCC Rcd 6589, 6602-04 (1993).

premature for the United States to commit to a global allocation of this spectrum at WRC-95.^{5/}

Because of the uncertainties associated with the domestic implementation of a global MSS allocation in the 1990-2110 MHz band, MSTV has argued that the implementation date for any ITU MSS allocations in the 1990-2110 MHz band should not be advanced from January 1, 2005, the effective date originally set at WARC-92 for the 1990-2010 MHz band allocation.^{2/} Significantly, a majority of the MSS industry commenters share MSTV's view that any ITU MSS allocations in the 1990-2025 MHz band should not become effective before January 1, 2005.^{8/}

^{5/} TRW also raised an additional potential difficulty with allocating spectrum in the 2010-2025 MHz band for MSS globally. A proposal for such an allocation would probably be opposed by some ITU member states in Regions 1 and 3 because "these bands are currently very heavily used in developing countries for backbone microwave links." *Id.* at 24. Evidently, many of these systems are digital. Cash-strapped developing nations that have recently constructed state-of-the-art digital microwave systems will have little enthusiasm for relocating these systems anytime soon. MSTV believes that this issue deserves further consideration before the United States takes any firm positions regarding the global feasibility of an MSS allocation in the 2010-2025 MHz band.

^{2/} See Joint Comments, IC Docket No. 94-31, at 12-14; Comments of MSTV and Other Major Television Broadcasting Entities, IC Docket No. 94-31, at 8-10 (July 15, 1994); see also Reply Comments of MSTV, ET Docket No. 93-198, at 2-5 (July 29, 1993).

^{8/} See Comments of IRIDIUM, Inc., at 18-19; Comments of Loral/Qualcomm, Inc., at 29; Comments of Motorola, Inc., at 9; Comments of TRW, Inc., at 22.

In this regard, MSTV agrees with TRW's observation that "it is now evident that the [1990-2025 MHz band] is not likely to be viable for MSS use, even in this country, until well after the year 2000." Comments of TRW, Inc., at 22. Indeed, MSTV believes that this will prove to be an understatement. Under these circumstances, it would be counterproductive to promote the advancement of the implementation date of any MSS allocations in the 1990-2110 MHz band. See id. at 24.

II. The 6875-7125 MHz and 12.75-13.25 GHz Bands Should Not Be Allocated to MSS Globally.

MSTV is also concerned with what appears to be an attempt by certain members of the MSS community to obtain access to the other two television broadcast auxiliary bands, the 6875-7125 MHz band and the 12.75-13.25 GHz band. Three commenters, all potential providers of MSS services, have advocated an ITU allocation of the 6875-7125 MHz and the 12.75-13.25 GHz bands to MSS, ostensibly to accommodate space-to-earth MSS links.^{2/}

Domestically, the Commission has allocated the 6875-7125 MHz and 12.75-13.25 GHz bands to the broadcast auxiliary

^{2/} See, e.g., Comments of COMSAT Mobile Communications, Inc., at 13-14 (6875-7075 MHz and 12.75-13.25 GHz bands); Comments of Constellation Communications, Inc., at 6 (6825-7025 MHz band); Comments of Loral/Qualcomm, Inc., at 16-18 (6825-7075 MHz and 12.75-13.25 GHz bands).

service.^{10/} Neither the Commission nor any commenter in this proceeding have produced any evidence showing either (a) the existence of excess capacity in these bands, or (b) the feasibility of sharing between broadcast auxiliary operations and MSS operations in the bands. It would be grossly premature for the United States delegation to advocate adoption of global MSS allocations in these bands given the near-complete absence of information regarding the domestic feasibility of such allocations. Furthermore, it must be made plain at the outset that alternative relocation arrangements for broadcast auxiliary incumbents in the 6875-7125 MHz and 12.75-13.25 GHz bands would have to provide fully effective protection for the incumbent users of this spectrum, and MSS operators would have to bear the costs. Finally, if this proposal is to be given any consideration, the Commission clearly has an obligation to circulate it for public comment before incorporating it into the United States' proposals at WRC-95.

MSTV urges that the United States' positions at the ITU WRC conferences should reflect, and not set, domestic spectrum policies; the ITU is an inappropriate forum for determining domestic spectrum policies in the first instance. Thus, given the absence of a record to support the feasibility

^{10/} See 47 C.F.R. §§ 2.106, 74.602(a), 74.631(j), 78.18 (1994). Unlike the 6875-7125 MHz band, broadcast network, cable network, and cable system fixed operations enjoy co-primary status in the 12.75-13.25 GHz band.

of new ITU allocations for MSS in the 6875-7125 and 12.75-13.25 GHz bands,^{11/} the Commission should not advocate an ITU allocation of these bands to MSS at WRC-95.

CONCLUSION

Given the overcrowding that presently exists in the 1990-2110 MHz band, an international MSS allocation in the 2010-2025 MHz band should be not be adopted in the absence of a fully effective, cost-reimbursed domestic transition plan for the incumbent users of this band. At a minimum, the uncertainty that exists regarding the domestic availability of spectrum in the 1990-2025 MHz band effectively precludes any possibility of making this spectrum available on a global basis before January 1, 2005. Finally, it would be premature to endorse global MSS allocations in the 6875-7125 MHz and/or

^{11/} Indeed, only one of the three commenters advocating the allocation of these bands to MSS even bothered to note the existence of a potential conflict with incumbent broadcast auxiliary services:

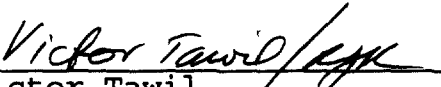
Although broadcast auxiliary operations exist in this band [the 6875-7125 MHz band], as well as terrestrial microwave services, the low PFDs of NGSO MSS feeder downlinks (less than -158 dBW/m²/4kHz) easily permit sharing.


Comments of Loral/Qualcomm, Inc., at 17. Loral/Qualcomm did not, however, submit any engineering data that supports this blanket assertion. Amazingly, Constellation Communications and COMSAT failed even to acknowledge the existence of a potentially conflicting domestic allocation for both bands.

the 12.75-13.25 GHz bands prior to further study of this issue domestically.

Respectfully submitted,

ASSOCIATION FOR MAXIMUM
SERVICE TELEVISION, INC.


Victor Tawil
Vice President
Association for Maximum
Service Television, Inc.
1776 Massachusetts Ave., N.W.
Suite 310
Washington, D.C. 20036
(202) 861-0344


Jonathan D. Blake
Ronald J. Krotoszynski, Jr.
Covington & Burling
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044-7566
(202) 662-6000

Its Attorneys

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